

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH DAKOTA

In re:)	Bankr. No. 10-40854
)	Chapter 7
ERVIN ROBERTOVICH MIRZAYANTS)	
SSN/ITIN xxx-xx-0797)	OBJECTION TO CLAIMED
)	EXEMPTIONS AND
Debtor.)	MOTION FOR TURNOVER

COMES NOW the Chapter 7 Trustee and objects to Debtor's claimed exemptions and, further, moves the Court for an order requiring turnover of property by the Debtor.

1. OBJECTION

Specifically, the Trustee objects on the basis that Debtor's claimed exempt property under S.D.C.L. § 43-45-4 exceeds Debtor's exemption limit of \$6,000.00 by \$2,474.00 based upon the following:

<u>Asset</u>	<u>Amount Exempted</u>
Cash	50.00
Bank Accounts	1,045.00
Household Goods	1,228.00
Earned Wages	120.00
2010 Federal Income Tax Refund	2,156.00
2000 Audi A6	3,575.00
1991 Buick Regal	300.00
 Total	 \$8,474.00

2. MOTION FOR TURNOVER

This motion is brought pursuant to 11 U.S.C. §521(4). This Court has jurisdiction pursuant to 28 U.S.C. §1334 and §157.

Based on the information provided on Debtor's schedules and testimony at the §341 meeting, Debtor has personal property valued as follows:

<u>Asset</u>	<u>Trustee Value</u>	<u>Amount Exempted</u>
Cash	50.00	50.00
Bank Accounts	1,095.00	1,045.00
Household Goods	1,228.00	1,228.00
Earned Wages	Unknown	120.00
2010 Income Tax Refund	Unknown	2,156.00
2000 Audi A6	3,575.00	3,575.00
1991 Buick Regal	300.00	300.00
1997 Honda	350.00	Not Exempt
 Total	 \$6,598.00	 \$8,474.00

Debtor has \$2,874.00 of non-exempt personal property equity (\$400.00 personal property equity not claimed exempt + \$2,474.00 personal property equity claimed exempt in excess of Debtor's personal property exemption limit). Furthermore, 308/365ths of Debtor's 2010 federal income tax refund, less the \$2,156.00 exempted, is property of the bankruptcy estate.

Additionally, during Debtor's §341 meeting, the Trustee requested a copy of the first pay advice Debtor received after filing in order to determine the amount of wages earned by Debtor pre-petition but not paid prior to filing. Those funds are an asset of the bankruptcy estate. The Trustee has not received the requested documents.

Furthermore, Debtor listed on Schedule A real property located at 5108-5110 West 47th Street in Sioux Falls, South Dakota, legally described as:

Lot 7 in Block 3 of Covington Heights, a Subdivision in Sioux Falls,
Minnehaha County, South Dakota, according to the recorded plat thereof.

Debtor valued the property at \$155,000.00 and listed on Schedule D that CitiMortgage, Inc. holds a secured claim against the property with a payoff of \$113,231.00. Debtor has surrendered the real property along with all personal property owned by Debtor located therein, including two refrigerators, two stoves, and a lawnmower, to the Trustee. Additionally, Debtor listed on Schedule B a \$300.00 security deposit from the tenants who are currently residing in the real property, which he will also surrender to the Trustee. The Trustee requests the Court enter an order confirming that the real property, all personal property owned by Debtor which is located at the real property, and the \$300.00 security deposit are property of the bankruptcy estate.

Wherefore, the Trustee would hereby request that the Court sustain the Trustee's objection to claimed exemptions, and order Debtor to turn over to the Trustee \$2,874.00, a copy of the first pay advice Debtor received after filing, any wages earned pre-petition but not paid prior to filing which have not been claimed exempt, the real property located at 5108-5110 West 47th Street in Sioux Falls, South Dakota, all personal property owned by Debtor which is located at the real property, including the two refrigerators, two stoves, and lawnmower, the \$300.00 security deposit from the tenants at 5110 West 47th Street in Sioux Falls, South Dakota, and the pre-petition amount of Debtor's 2010 federal income tax refund which has not been claimed exempt; and for such other and further relief as is deemed appropriate by the Court under the circumstances.

Dated this 3rd day of December, 2010.

LEE ANN PIERCE
/s/ Lee Ann Pierce
Chapter 7 Bankruptcy Trustee
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